

**PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

**Item 21**

**Agenda ID 14033**

**ENERGY DIVISION**

**RESOLUTION G-3502 (Rev. 1)**

**June 25, 2015**

**R E S O L U T I O N**

Resolution G-3502. Southern California Gas Company requests Approval of Interruptible Transportation Capacity Contracts with Affiliates and an extension of the term of one of the contracts.

**PROPOSED OUTCOME:**

- This Resolution approves five Southern California Gas Company (SoCalGas) interruptible transportation capacity contracts with affiliates as requested in Advice Letter 4668 and the extension of the term of one of the contracts as requested in Advice Letter 4718.
- This resolution requires that SoCalGas pay a penalty of \$10,000 for violating Affiliate Transaction Rule III.B.1: Resource Procurement.

**SAFETY CONSIDERATIONS:**

- It is the utility's responsibility to adhere to all Commission rules, decisions, General Orders, and statutes including Public Utility Code Section 451 to take all actions "... necessary to promote the safety, health, comfort, and convenience of its patrons, employees and the public."

**ESTIMATED COST:**

- Unknown. Costs are incurred under the contracts on an as-needed basis to ensure SoCalGas Southern System reliability.

By Advice Letter 4668 filed on July 8, 2014 and Advice Letter 4718 filed on November 26, 2014.

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**SUMMARY**

**This Resolution approves Advice Letter (AL) 4668 and Advice Letter 4718.**

**AL 4668 requests approval of five existing interruptible transportation capacity contracts with two of Southern California Gas Company's (SoCalGas) affiliates in Mexico: Gasoducto Rosarito (GR) and Transportadora de Gas Natural (TGN).** Four contracts are intended to provide for natural gas transportation services from the SoCalGas Ehrenberg/Blythe system receipt point to Otay Mesa<sup>1</sup> on pipelines owned by the affiliates. The fifth contract provides for administrative support of the transportation services. The movement of gas supply from Ehrenberg/Blythe to Otay Mesa is, under certain circumstances, used as a tool to help maintain system reliability on the SoCalGas Southern System.

**AL 4718 requests approval of an amendment to one of the contracts, extending for six months the term of the contract with GR that provides administrative support services.<sup>2</sup>** The amendment extends the term of the administrative support services contract from October 2014 through March 2015.

**SoCalGas must pay a penalty of \$10,000 for failure to secure Commission preapproval of the contracts as required by the Resource Procurement provisions of the Affiliate Transaction Rules (ATR) III.B.1.** While this resolution approves the contracts that have been put into place and a six month extension of the term for the contract providing administrative services, it also penalizes SoCalGas \$10,000 for failure to comply with the ATR.

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<sup>1</sup> Ehrenberg is on the Arizona border close to Blythe California. Ehrenberg/Blythe is the main receipt point for SoCalGas Southern System supply which is delivered to the Arizona/California border via the El Paso Southern Mainline. The Otay Mesa receipt point is close to the border with Mexico at San Diego.

<sup>2</sup> The four interruptible transportation service agreements have evergreen terms (month-to-month until a party provides 30-days prior written notice of termination). Therefore, these transportation service agreements are still in effect pending Commission approval of AL 4668. The administrative services agreement has been previously amended to provide services through September 30, 2014.

## **BACKGROUND**

**In 2010 and 2011, SoCalGas entered into four contracts with GR and TGN for transportation services to move gas supply from Blythe to Otay Mesa through Mexico. Additionally, SoCalGas entered into a fifth contract with GR for administrative support of the contracted transportation services. These contracts are now used to support the Southern System reliability tool approved in Resolution G-3474.** In order to assure deliveries of natural gas into the southern part of its system and the San Diego Gas & Electric Company area, SoCalGas needs minimum amounts of supply to be delivered to specific receipt points. Under some conditions, supply needed at Otay Mesa cannot be provided through the SoCalGas Southern System pipelines. In these situations, the need can often be met in full or in part by spot purchases at Otay Mesa by the SoCalGas System Operator. In some circumstances, it is more cost effective to transport supply available at Ehrenberg/Blythe to Otay Mesa via the affiliate pipelines. Additionally, in some cases there is not sufficient supply available for spot purchase at Otay Mesa and transport across the affiliate pipelines is the only alternative.

The use of this transportation alternative was approved by the Commission in Resolution G-3474 as another tool by which SoCalGas could maintain Southern System reliability. SoCalGas subsequently entered into the interruptible transportation capacity contracts with GR and TGN.

**As required by the Resource Procurement Provisions of the Affiliate Transaction Rules, the five contracts referenced above required preapproval by the Commission.** An audit of SoCalGas affiliate transactions was conducted in 2012/13 for years 2010 and 2011 by a Commission approved auditor. The audit determined that **these five contracts were not preapproved as required.** SoCalGas has not disputed this finding of the audit.

**With AL 4668, SoCalGas is submitting the five contracts for approval. With AL 4718, SoCalGas is requesting approval for an amendment extending the term of one of these contracts, the Administrative Services Agreement with GR.**

## **NOTICE**

Notice of AL 4668 and AL 4718 was made by publication in the Commission's Daily Calendar. SoCalGas sent a copy of the Advice Letter to the General Order 96-B parties listed on Attachment A to the Advice Letter.

## **PROTESTS**

ALs 4668 and 4718 were not protested.

## **DISCUSSION**

**AL 4668 should be approved. Nothing indicates that, had the required preapproval been sought, the contracts would not have been approved.** Resolution G-3474 approved the transportation of gas supply from Ehrenberg/Blythe to Otay Mesa as a tool to help maintain Southern System reliability. The tool is premised on the use of existing service available through the affiliate lines. The transportation service is provided pursuant to the contracts submitted for approval in AL 4668, and the service has been provided under the contracts. Further, the interruptible transportation service provided under the four contracts is priced at the affiliates' tariff rates. Additionally, use of the contracted service was disclosed to the Commission. SoCalGas states that transactions under the contracts were disclosed to the Commission in its Year 18 Gas Cost Incentive Mechanism application, Application (A.) 12-06-005. A review of the application confirms this statement. The AL also provides supporting documentation that the transactions were reported in the SoCalGas 2013 Annual Report on Affiliate Transactions. AL 4668 was not protested.

The first apparent realization that the contracts had not been preapproved surfaced as a result of the draft 2010-2011 affiliate transaction audit report prepared by Commission -approved auditor NorthStar Consulting.<sup>3</sup> SoCalGas characterizes the error as an "inadvertent oversight" and submitted AL 4668 to correct the error. Having recognized the error SoCalGas took appropriate steps, i.e., filing AL 4668, to correct it.

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<sup>3</sup> The audit was conducted over the years and 2013 and 2014.

In sum,

- the contracts are the mechanism under which SoCalGas executes a useful reliability related tool,
- there is no reason to believe the contracts would not have been preapproved,
- the service provided under the contracts was reported to the Commission in A.12-06-005, and
- once the failure to obtain preapproval was identified, steps were taken to correct the problem.

**However, the apparent usefulness and acceptability of the contracts does not excuse SoCalGas' failure to comply with affiliate transaction rules. SoCalGas should be penalized \$10,000 for failure to comply with the Affiliate Transaction Rule III.B.1 .**

Affiliate Transaction Rules – Decision.06-12-029, Rule III.B.1: Resource Procurement states that “No utility shall engage in resource procurement, as defined in these rules, from an affiliate without prior approval from the Commission.”<sup>4</sup> The NorthStar audit clearly identifies that a violation of the rule took place and the Advice Letter does not dispute that the agreements were placed into effect without the required pre approval. Further, what SoCalGas characterizes as an oversight appears to fall into what the audit identified as “management indifference to ATR compliance requirements.” In describing management’s indifference the audit specifically referenced failures “in executing contracts with affiliates.”<sup>5</sup>

ATR Rule VIII.D: Remedies. Section 1.c. states that the commission may “Asses fines or other penalties.” Section 2 states that “Any public utility which violates

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<sup>4</sup> In addition to the ATRs requiring preapproval, General Order 96-B, Energy Industry Rule 7.1 requires Commission approval of any contracts before they go into effect.

<sup>5</sup> 2010 and 2011 Affilliate Transactions Audit of Southern California Gas Company, Prepared for The California Public Utilities Commission, October 31, 2014 Final Report. NorthStar Consulting Group. Executive Summary, p. 1.

a provision of these rules is subject to a fine of not less than five hundred (\$500) nor more than \$20,000 for each offense.”<sup>6</sup>

The penalty of \$10,000 equates to a penalty of \$2,000 for each of the five agreements put into effect without prior approval. Arguably the penalty could be at \$100,000 if the maximum dollar amount per offense were applied to each agreement. The \$10,000 penalty amount recognizes the usefulness of the agreements, the high likelihood that had preapproval been sought it would have been granted and the fact that the existence of the agreements was reported to the Commission. Given the pattern of violations as indicated in the audit and the audit’s assessment of the seriousness of the type of violation presented by the failure to seek preapproval, a lesser penalty would be inappropriate.

**AL 4718 should be approved. The extension of the existing agreement will not change existing rates or charges, result in a withdrawal of service or conflict with any existing schedules or rates. The AL was not protested.**

As discussed above the agreement presented in AL 4718 is one of the five contracts presented in AL 4668 for which SoCalGas is seeking approval and which this resolution approves. The amendment seeking to extend the agreement for six months will allow for the use of the other four contracts and, in conjunction with them, the use of a Commission approved tool to aid in Southern System reliability.

## **COMMENTS**

The draft Resolution was mailed for comments on June 5, 2015. The sole party, SoCalGas, stipulated to a shortened comment period of twenty days with written comments due by June 15, 2015. No comments were received.

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<sup>6</sup> Similarly Public Utilities Code 2107 states: “2107. Any public utility which violates or fails to comply with any part or provision of any order, decision, decree, rule, direction, demand, or requirement of the Commission, in a case in which a penalty has not otherwise been provided, is submect to a penalty of not less than five hundred (\$500), nor more than twenty thousand dollars (\$20,000) for each offense.”

## **FINDINGS**

1. In 2010 and 2011 Southern California Gas Company (SoCalGas) entered into five contracts with two of its Mexican affiliates, Gasoducto Rosarito (GR) and Transportadora de Gas Natural (TGN). The contracts provide for transportation of natural gas supply between the SoCalGas receipt point at Ehrenberg/Blythe at the eastern California border to the Otay Mesa receipt point near San Diego and associated administrative support for that service. The service provided under the transportation contracts is priced at the affiliates' tariff rates.
2. The service provided under the contracts is used as a tool to manage Southern System reliability.
3. Under the Resource Procurement provisions of the Affiliate Transaction Rules (ATR) contracts with affiliates require Commission preapproval. An audit of SoCalGas affiliate transactions reported that the five contracts with GR and TGN had not been preapproved by the Commission.
4. Although not preapproved, the use of the services under the affiliate contracts was reported to the Commission in SoCalGas' Application 12-06-005 and in the utility's 2013 Annual Report on Affiliate Transactions.
5. On July 8, 2014 Southern California Gas Company (SoCalGas) filed Advice Letter (AL) 4668 requesting approval of the five contracts. The AL was filed to correct the fact that preapproval had not been obtained.
6. The approval requested in AL 4668 is for contracts already in use.
7. AL 4668 was not protested.
8. The contracts should be approved.
9. A penalty of \$10,000 should be assessed for violation of the ATR. Under ATRs penalties for violations may range from \$500 to \$20,000 per event. The penalty of \$10,000 considers the value of the agreements, the fact that the contracts were included in SoCalGas reports to the Commission and that the contracts would likely have been preapproved if submitted, weighed against the audit's comments concerning the seriousness of the violations and the pattern of noncompliance with ATR identified in the audit.
10. On November 26, 2014, SoCalGas filed AL 4718 requesting approval of an amendment to one of the five contracts presented in AL 4668. The amendment extends the term of the contract for administrative services for six months thereby providing continued administrative support for the remaining four contracts for transportation service.

11. The requested extension will not increase or decrease rates or charges, conflict with any schedules or rules or cause the withdrawal of service.
12. AL 4718 was not protested.

**THEREFORE IT IS ORDERED THAT:**

1. Southern California Gas Company Advice Letters 4668 and 4718 are approved.
2. Southern California Gas shall pay a penalty of \$10,000 by check, money order or wire transfer payable to the California Public Utilities Commission and mailed or delivered to the Commission's Fiscal Office at 505 Van Ness Avenue, Room 3000, San Francisco, CA 94102, within 30 days of the effective date of this order. SoCalGas shall write on the face of the check or money order or wire transfer memo "For Deposit to the General Fund per Resolution G-3502."
3. All money received by the Commission's Fiscal Office pursuant to the preceding Ordering Paragraph shall be deposited or transferred to the State of California General Fund as soon as practical.
4. If Southern California Gas Company does not pay in full the \$10,000 penalty ordered in Ordering Paragraph 2, the outstanding amount shall include interest at the rate earned on prime, three-month, non-financial commercial paper as reported in the Federal Reserve Statistical Release H.15, beginning the 31<sup>st</sup> day after the effective date of this resolution.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held on June 25, 2015; the following Commissioners voting favorably thereon:

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TIMOTHY J. SULLIVAN  
Executive Director